

BOARD OF DESIGN REVIEW MINUTES

July 26, 2001

CALL TO ORDER: Chairman Walter Lemon III called the meeting to order at 6:30 p.m. in the Beaverton Public Library, Meeting Room "A", at 12375 SW Fifth Street.

ROLL CALL: Present were Chairman Walter Lemon III; Board Members Hal Beighley, Anissa Crane, Ashetra Prentice and Stewart Straus. Board Members Monty Edberg and Ronald Nardozza were excused.

Senior Planner John Osterberg, Associate Planner Scott Whyte, Project Engineer Joel Howie, Assistant City Attorney Bill Scheiderich and Recording Secretary Sandra Pearson represented staff.

VISITORS:

Chairman Lemon read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

Observing that she had not been present during the previous Public Hearings on certain applications, Ms. Crane disqualified herself from participating in BDR 2001-0028 – Sprint PCS Telecommunications Facility at Kim's Market Type 3 Design Review and BDR 2000-0185 – Murray Hills Christian Church Addition Type 3 Design Review.

With respect to the first two items on the agenda, Chairman Lemon stated that he had several conversations with Community Development Director Joe Grillo and Associate Planner Scott Whyte over the past two weeks, on procedures only. He asked if there was anyone in attendance who wanted to challenge the right of any member of the Board to participate in these hearings. He indicated that he would not disqualify himself from participating in the procedural actions that need to occur to resolve these issues.

EVELYN SILER questioned whether those members of the Board who have not been present at the prior Public Hearings and have not received the benefit of the testimony and exhibits should be participating in these issues.

Chairman Lemon advised Ms. Siler that all members have received extensive information beyond the usual regarding both the proposed church addition and proposed cellular tower, adding that Board Member Beighley would arrive during the meeting and that the agenda can be revised to accommodate these issues.

Mr. Straus, observing that he had missed the two previous meetings on this specific issue, assured Ms. Siler that he has familiarized himself with the minutes from these meetings, visited the site and read the arguments in some detail for the church addition, adding that he feels sufficiently knowledgeable to consider action on this issue. He pointed out that he had attended the initial meeting regarding the cellular tower, adding that no action had been taken at the last meeting and that he has reviewed the minutes and feels capable of making an appropriate decision on this issue as well.

Ms. Siler questioned whether Ms. Crane has adequate information to make an appropriate decision on these issues.

Ms. Crane advised Ms. Siler that she had disqualified herself from participating on these issues.

OLD BUSINESS:

CONTINUANCES:

A. HOME DEPOT

(Request for continuance to December 20, 2001)

The following land use applications have been submitted for an approximately 105,500 square foot commercial building, a 14,700 square foot garden center, and 194 space parking structure on approximately 7.82 acres of land located at 5150 SW Western Avenue. The development proposal is located on Assessor's Map 1S1-14CB on Tax Lot's 1000 and 1100 and is zoned Campus Industrial (CI) with a Development Control Area (DCA) overlay district.

1. BDR99-00231: Type III Design Review

This request is for Design Review approval of a proposed commercial project, including a new building, parking structure, sidewalks, and associated landscaping.

2. VAR2001-0005: Variance (Design)

The applicant also requests approval of a Design Variance to allow more than the 60% maximum lot coverage as allowed in the Campus Industrial zone, providing for an additional 7% building coverage over the maximum lot coverage requirement.

Associate Planner Scott Whyte observed that the applicant had requested a continuance to December 20, 2001.

Chairman Lemon suggested that an alternative date would be more appropriate.

Mr. Whyte observed that the applicant had requested this specific date, adding that nothing is scheduled for the meeting on December 13, 2001.

Mr. Straus **MOVED** and Ms. Prentice **SECONDED** a motion to continue BDR 99-00231 – Home Depot Type 3 Design Review and VAR 2001-0005 – Home Depot Design Variance to a date certain of December 13, 2001.

The question was called and the motion **CARRIED**, unanimously.

Chairman Lemon opened the Public Hearing and read the format of the meeting, including the procedure for appeal.

Chairman Lemon observed that the agenda order has been revised in order to allow Mr. Beighley the opportunity to arrive to participate in the decisions for the monopole and the church addition. He stated that it is important to have as many voting members as possible on the first two items.

Mr. Whyte mentioned that he had discussed the agenda revision with several of the neighbors and applicants, adding that some individuals could be arriving at 8:00 p.m. for the Sprint Monopole and Murray Hills Christian Church Addition items.

Chairman Lemon called the hearing for Hall Boulevard Bike Lane Improvements.

B. HALL BOULEVARD BIKE LANE

The following land use applications have been submitted for the addition of 5.5 foot wide bike lanes to each side of Hall Boulevard where proposed. The development proposal is located on a portion of the Hall Boulevard right-of-way, located east of Ridgecrest Drive and west of the Cascade Boulevard. Also proposed is a tree planting plan for an area that is north of Hall Boulevard along Fanno Creek. The development proposal is located on Washington County Assessor's Map's 1S1-27BA, 1S1-27AB and 1S1-27AD.

1. TPP 2001-0003: Tree Preservation Plan

This request involves Design Review approval of a Tree Preservation Plan (TPP) for the removal of certain trees and the protection of other trees affected by bike lane construction.

2. BDR 2001-0079: Type 3 Design Review

This request involves Design Review approval for the addition of 5.5-foot wide bike lanes, widening of Fanno Creek Bridge, street tree planting, street lighting and wetland mitigation along Fanno Creek.

3. VAR 2001-0010 - HALL BOULEVARD BIKE LANE

Request for Design Variance approval to vary from the City standards requiring the undergrounding of private utilities as part of the City's proposal to add bicycle lanes to each side of SW Hall Boulevard, between SW Ridgecrest Drive and SW Cascade Boulevard. The Board of Design Review will consider this application for Variance along with the associated application for bicycle lane improvements (Design Review application No. BDR2001-0079), and the associated request for removal of certain trees along SW Hall Boulevard (Tree Preservation Plan application No. TPP 2001-0003). In taking action on the proposed Variance application, the Board of Design Review shall base its decision on the Variance approval criteria found in Section 40.80.15.3.C. of the City Development Code.

Mr. Whyte asked the Board if all three applications would be heard simultaneously, which the Board confirmed. He presented the Staff Reports and related Staff Memorandums, introduced Project Engineer Joel Howie, observing that although no trees are scheduled for removal due to this project, several of the trees would be affected by the bridge widening. He pointed out that no Conditions of Approval have been recommended for the Design Variance, adding that four of the existing telephone poles would be impacted and relocated due to the bridge widening. Concluding, he mentioned that five Conditions of Approval have been proposed for the Design Review application and three Conditions of Approval have been proposed for the Tree Preservation application, and offered to respond to any questions or comments.

Ms. Prentice questioned whether Hall Boulevard is actually being expanded.

Mr. Whyte advised Ms. Prentice that Mr. Howie would provide a more detailed explanation, observing that the actual widening of the road to delineate a clear bike lane is mostly within the existing right-of-way.

Chairman Lemon requested clarification of providing for a tree preservation plan when no trees have been proposed for removal.

Mr. Whyte advised Chairman Lemon that because the root zone would be impacted, the trees would still be affected.

APPLICANT:

Project Engineer **JOEL HOWIE** described the purpose of this project, specifically to separate vehicles from bicycle lanes, providing a safer situation. He mentioned that Hall Boulevard is identified as a Regional Bike Lane Facility, adding that although the City of Beaverton had applied for Federal funding through the Oregon Department of Transportation (ODOT) and Metro to help fund this project, the Federal funds had been appropriated. He described efforts

to provide for a design that meets all applicable criteria, and provided an illustration depicting the route, trees and landscaping included within the project.

PUBLIC TESTIMONY:

RON MELOTT expressed his agreement regarding relocation of at least one electrical pole, observing that all of his personal concerns are safety-related and referred to a letter located in the back of the Staff Report outlining his concerns. Observing that bicyclists, particularly young children, do not follow the rules of the road, he emphasized that he anticipates many conflicts with this situation. He expressed his opinion that some major intersection improvements are necessary and recommended some alternative routes that would, in his opinion, be safer for bicyclists. Concluding, he noted that he does not approve of this application, as presented, and offered to respond to any questions or comments.

Observing that people would be riding bicycles whether the project is approved or not, Mr. Straus asked Mr. Melott whether they would be less safe with the bike lane.

Mr. Melott advised Mr. Straus that although the children would not necessarily be less safe, but that the bike lane improvements, as proposed, could encourage more bicycles in this area, and thus more conflicts would be created.

Mr. Straus requested clarification as to why Mr. Melott feels that this particular area is different or particularly more dangerous than other areas with existing marked bicycle lanes.

Observing that he has lived in this area for 24 years and that he would not like to see the City of Beaverton involved in a potential lawsuit, Mr. Melott expressed his opinion that due to the higher speeds and a greater number of vehicles, the entire area needs to be reevaluated.

Ms. Crane requested clarification as to the alternative route suggested by Mr. Melott and asked if there was sufficient space for bicyclists and pedestrians.

Mr. Melott noted his observations of the site area and the improvements he felt were necessary.

Chairman Lemon asked if there was anyone else who wanted to testify. There was no response.

APPLICANT REBUTTAL:

Mr. Howie explained that while it would be necessary to relocate four utility poles into an existing utility easement, if the poles were in their proper location, this

variance would not be necessary. He out the location of the poles and discussed the purpose of road.

Mr. Straus requested clarification of the rationale for not undergrounding the utilities at this site.

Mr. Howie advised Mr. Straus that dual left turn lanes on Hall Boulevard would have to be widened out to the north at Greenway and that this particular right-of-way has not been acquired.

Mr. Straus questioned the possibility of creating an easement until the right-of-way is acquired.

Mr. Howie informed Mr. Straus that while this is possible, it would create a significant cost increase to the project.

Mr. Straus pointed out that this would be necessary at some future point, through a dedication.

Mr. Howie advised Mr. Straus that this future dedication could be settled through a utility easement.

Mr. Straus expressed his opinion that this would require a future dedication of right-of-way, which would include the necessary space required for the undergrounding.

Mr. Howie agreed with Mr. Straus' statement.

Mr. Straus questioned whether payment for additional property would be necessary at this future point.

Mr. Howie informed Mr. Straus that the acquisition of additional property or an easement in the future would very likely involve payment.

Mr. Straus pointed out that while Mr. Howie is claiming that the money is not available to provide for the acquisition of property necessary for undergrounding, it would become necessary at some future point.

Mr. Howie mentioned that the cost would be quite significant, expressing his opinion that this is not economically feasible.

Mr. Straus questioned whether undergrounding done at this time might have to be relocated in the future, pointing out that any poles that are installed at this time might need to be relocated as well. He emphasized that regardless of what action is taken at this time, there would be additional costs in the future.

Observing that he is attempting to utilize City right-of-way as efficiently as possible, Mr. Howie explained the function of the Portland General Electric (PGE) franchise, emphasizing that the relocation of the pole would be at PGE's expense, while undergrounding would create an expense for the City of Beaverton.

Mr. Straus expressed his opinion that this is not justification for the requested variance, emphasizing that Mr. Howie is missing the point of the undergrounding requirement and that the applicant's cost is not a valid consideration. He pointed out that there must be extenuating circumstances for not meeting this requirement in order for the Board to base approval or disapproval of the variance.

Mr. Whyte referred to Design Variance approval Criterion 2, and observed that the language of Criterion 2 does not exclude the possibility of financial hardship as a consideration. However, additional findings related to financial hardship are necessary.

Mr. Straus expressed his opinion that if this application is granted, there should at least be a Condition of Approval requiring the applicant to underground the utilities at the future time when this particular right-of-way is widened. He emphasized that the City of Beaverton is not entitled to any special preference beyond what any other applicant would receive.

Chairman Lemon asked about utility vaults that could be placed underground.

Mr. Howie informed Mr. Straus and Mr. Lemon that the utilities could not be undergrounded to accommodate for future street widening at this time, observing that this would require more design and that the trench would need to be much deeper.

Mr. Straus reiterated that this would, however, become necessary at some future point, emphasizing that cost appears to be the only issue, which is not a valid consideration.

Mr. Howie expressed his opinion that this does involve a hardship.

Chairman Lemon mentioned that drivers from Hall Boulevard onto Greenway are unlikely to take extra precautions in observation of the bicyclists, noting that at the risk of waiting in a long line, most drivers do not consider slowing down to make this right turn. He also asked about the placement of the existing bus stop.

Chairman Lemon reopened the hearing, noting that he had received a card earlier from Hal Ballard.

PUBLIC TESTIMONY:

HAL BALLARD, Chairman of the Beaverton Bike Task Force, discussed the situation with the proposed bike lane, which he referred to as an interesting dilemma, and expressed his ideas on what he considers a design flaw with the existing street system.

Chairman Lemon requested that Mr. Ballard submit his information to be designated as an exhibit.

Mr. Ballard mentioned Mr. Melott's statement indicating that a great deal of consideration needs to go into this project, and referred to a flyer from the City of Beaverton, dated October 2000, regarding this project. Observing that it has been nearly two years since this project was initiated, he expressed his opinion that a great deal of thought has gone into the issues. He agreed that the Hall Boulevard/Greenway intersection is particularly dangerous for bicyclists, noting that he would prefer that no bike lanes are located there. He suggested what he considers a possible solution or alternative to address the issues at this particular intersection. He stated that bike lanes would not necessarily make it safer but that they would provide visual delineations.

Mr. Straus asked about the possibility of right-turn only for vehicles.

Mr. Ballard stated that there is not sufficient room for that improvement.

Chairman Lemon questioned whether Mr. Ballard has safety concerns with bicyclists riding down Hall Boulevard where the bus stop is located.

Mr. Ballard emphasized that responsible motorists and bicyclists share the same basic principles, noting that the Oregon Revised Statutes (ORS) covers every aspect of the rights and responsibilities of both automobiles and bicycles.

Chairman Lemon questioned how the City of Beaverton intends to address the issue with the bus stop.

Mr. Howie described the practice of the Tri-Met buses of pulling into the bike lane and stopping at the curb, observing that the bicyclists would find it necessary to travel around the bus, pointing out that the City feels that what is being implemented is safer than what exists at this time.

Chairman Lemon questioned whether this is based on the assumption that an automobile would yield the right-of-way to a bicycle.

Mr. Howie observed that as a bicyclist, he would rather be separated from the automobile traffic, pointing out that a special designated lane should provide a greater assurance of protection than what exists today.

Chairman Lemon mentioned that he doesn't even attempt to drive in that particular location during certain times.

Ms. Prentice questioned whether bicyclists traveling within the bike lanes are limited to specific speed limits.

Mr. Howie advised Ms. Prentice that by law, a bicycle, like an automobile, must travel within the posted speed limit and obey all applicable vehicle regulations. He explained to her that a center refuge is a protected median area allowing pedestrians to safely cross half of the street first and then to cross the other half.

Mr. Whyte discussed the variance issue for the exception to undergrounding, specifically in response to Mr. Straus' indication that the City should be held to the same standards as a private developer. Cooperatively, he mentioned that private developers would typically be required to underground utilities associated with the development site. He also mentioned that nexus and proportionality laws prevent the City from requiring extensive street improvements, and for this reason, you see a hodgepodge of street improvements.

Mr. Straus expressed his opinion that the variance approval should be conditioned to provide for future undergrounding when Hall Boulevard is widened.

The public portion of the Public Hearing was closed.

Mr. Straus **MOVED** for approval of VAR 2001-0010 – Hall Boulevard Bike Lane Design Variance, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 23, 2001, including the addition of Condition of Approval No. 1, as follows:

1. Any future projects in this portion of Hall Boulevard require the undergrounding of all utilities not being not undergrounded at this time.

Hearing no second, Chairman Lemon stated that the motion is lost for the lack of a second.

Chairman Lemon asked if there was a second motion. Hearing none, he passed the gavel to Vice-Chairman Straus.

Observing that she had been considering the motion, Ms. Crane questioned whether she could now second the motion.

Mr. Lemon observed that the motion had been closed.

Vice-Chairman Straus called for a motion.

Mr. Lemon **MOVED** and Ms. Crane **SECONDED** a motion to deny VAR 2001-0010 -- Hall Boulevard Bike Lane Design Variance, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 23, 2001, based upon Paragraph B of the Board of Design Review Standards, which states, as follows: "There is a desirable, efficient and workable interrelationship among the buildings, parking, loading area, circulation, open space, landscaping and related activities and uses on the site." In discussion of the motion, he further stated that according to the applicable design standards, due to the fact that the poles are not being undergrounded, strictly due to what he referred to as financial hardship to the applicant, this is not a desirable, efficient and workable relationship of open spaces and related activities and uses on the site. He expressed his opinion that the poles could be undergrounded, meeting the applicable code, as intended, which would create a more attractive area in the City of Beaverton.

Mr. Whyte mentioned that the Variance application provides for four-part approval criteria, and referred to pages 7 and 8 of the Variance Staff Report. He observed that part of motion referenced Criterion 2, relating specifically to a financial hardship or inconvenience, and requested clarification of whether this is the basis for the motion of denial.

Mr. Lemon advised Mr. Whyte that he had based his motion for denial upon Paragraph B of the Board of Design Review Standards.

Mr. Whyte reminded the board that each application requires a separate motion, expressing his opinion that Paragraph B of the Board of Design Review Standards would be a more appropriate basis for a denial of the Type 3 Design Review application.

Mr. Lemon emphasized that he does not feel that granting the Design Variance is in harmony with the applicable objectives, pointing out that the purpose of the code in undergrounding utilities is to create a more harmonious neighborhood. He also mentioned that utility undergrounding is more pleasing to the eye and would not cause problems by undergrounding at this time, as opposed to ten years in the future.

Acting Chairman Straus mentioned that there is a motion on the floor, noting that the pending motion needs to be amended or withdrawn prior to any new motion.

Assistant City Attorney Scheiderich commented that there had been sufficient clarification of the motion on the floor.

The question was called and the motion **CARRIED**, unanimously.

Vice-Chairman Straus stated that the application is denied and returned the gavel to Chairman Lemon.

Mr. Straus **MOVED** and Ms. Prentice **SECONDED** a motion for the approval of TPP 2001-0003 – Hall Boulevard Bike Lane Tree Preservation Plan, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 26, 2001, including recommended Conditions of Approval Nos. 1 through 3.

The question was called and the motion **CARRIED**, unanimously.

Mr. Straus **MOVED** and Ms. Crane **SECONDED** a motion for the approval of BDR 2001-0079 – Hall Boulevard Bike Lane Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 26, 2001, including recommended Conditions of Approval Nos. 1 through 5.

Ayes: Crane
Straus

Nays: Lemon
Prentice

Chairman Lemon declared the motion deadlocked and reverted to Robert's Rules of Order, observing that the motion is lost.

Chairman Lemon passed the gavel to Vice-Chairman Straus.

Vice-Chairman Straus called for a motion.

Mr. Lemon **MOVED** and Ms. Prentice **SECONDED** a motion for the denial of BDR 2001-0079 – Hall Boulevard Bike Lane Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 26, 2001, and based upon Paragraph B of the Board of Design Review Standards, which states, as follows: "There is a desirable, efficient and workable interrelationship among the buildings, parking, loading area, circulation, open space, landscaping and related activities and uses on the site."

Mr. Lemon expressed his opinion that bike path, as designed, does not meet the criteria related to the circulation and related activities and uses on the site, adding that it does not provide a desirable, efficient or workable interrelationship with the present traffic flow and the existing bus stop in that area, emphasizing that this action would create a hazard for the bicyclists.

Vice-Chairman Straus questioned whether denial of this application is necessary to achieve the desired result, suggesting the possibility of either an approval, with

conditions, or a continuance to allow the applicant the opportunity to submit an alternative design without crippling the entire project.

Mr. Lemon stated that as the motion maker, he is willing to allow the applicant to make a further presentation to the Board.

Vice-Chairman Straus reopened the Public Hearing to allow the applicant the opportunity to respond to a possible continuance of the hearing.

Mr. Howie offered an alternative design, specifically an additional Condition of Approval, as follows:

- The additional right-turn lane to separate that right-turn lane and bike lane similar to what is shown at Creekside, which is illustrated on Sheet No. 5.
- A major right-turn lane and a five-foot bike lane separated.

Mr. Lemon questioned how this action would be accommodated by this two-lane road, specifically whether the street would be widened.

Mr. Howie advised Mr. Lemon that the street would be widened, observing that he anticipates the cost would be approximately \$75,000, adding that the big unknown in this estimate involves the planter strip located by the apartment complex, which would need to be purchased.

Vice-Chairman Straus recommended that the motion for denial be withdrawn and replaced by a motion for approval, with conditions, rather than continuing the Public Hearing.

Mr. Howie informed the Board that, in the event of a continuance, the alternative he had just presented is the solution he would return with.

Mr. Lemon withdrew his motion and Ms. Prentice withdrew her second for denial of BDR 2001-0079 – Hall Boulevard Bike Lane Type 3 Design Review.

8:05 p.m. – Mr. Beighley arrived.

8:06 p.m. to 8:12 p.m. – Vice-Chairman Straus called for a recess.

Chairman Lemon reclaimed the gavel and advised those present that although he would sit in during the remainder of this Public Hearing, Mr. Beighley would not participate in this issue.

Chairman Lemon reopened the public portion of the Public Hearing to allow staff and the applicant the opportunity to submit additional information.

APPLICANT:

Mr. Howie mentioned that he had originally envisioned a project similar to Portland's bike lanes, and described a hazard area marked with signs and blue pavement marking to indicate a high-use conflict area, emphasizing that this has been successful in Portland and that as a result, the bicycles merge with the vehicles.

Mr. Scheiderich pointed out that in Portland, there are signs that state "Vehicles Yield to Bicycles".

Observing that it extends east of Greenway, along Hall Boulevard, Chairman Lemon requested clarification of how far the blue marking extends from Greenway west along Hall Boulevard.

Mr. Howie explained that Portland marks the area from the start to the end of the intersection in blue.

Mr. Straus questioned whether this blue marking is in addition to the design illustrated on page 5.

Mr. Howie advised Mr. Straus that the blue marking is separate to the design illustrated on page 5, pointing out that this is one of three options.

Mr. Straus discussed the three options provided by Mr. Howie, observing that from the standpoint of safety and desirable circulation it is obvious that the option similar to Creekside would provide the most desirable option, adding that he is not concerned with what color the lanes are painted. He also remarked that the paint might not be visible at night.

Mr. Howie advised Mr. Straus that the material is reflective and that additional lighting would be added.

PUBLIC TESTIMONY:

JIM PERSEY expressed his support of the bike lanes and described the current problems he has observed at the site.

Mr. Ballard discussed Portland's program that addresses bicycle traffic, expressing his opinion that this project has been very successful. He observed that the accident rate has decreased dramatically as a result of the reflective markings.

On question, staff had no further comments at this time.

The Public Hearing was closed.

Mr. Straus **MOVED** and Ms. Crane **SECONDED** a motion for the approval of BDR 2001-0079 – Hall Boulevard Bike Lane Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearing on the matter and upon the background facts, findings and conclusions found in the Staff Report dated July 19, 2001, including recommended Conditions of Approval Nos. 1 through 5, and additional Conditions of Approval, as follows:

6. The existing bus stop at the west side of Greenway and south side of Hall Boulevard shall be moved to the east side of Greenway; and
7. The bike lane configuration on the south side of Hall Boulevard and west side of Greenway shall be changed to match that shown on Sheet No. 5 for the intersection of Creekside and SW Hall Boulevard, and the bike lane from the start of the right turn lane through the intersection to the east side of Greenway shall be painted with reflective blue paint.

The question was called and the motion **CARRIED**, unanimously.

Mr. Whyte suggested the possibility of readjusting the agenda again to allow for BDR 2001-0028 – Sprint PCS Telecommunications Facility at Kim's Market Type 3 Design Review and BDR 2000-0185 – Murray Hills Christian Church Addition Type 3 Design Review, which were not resolved at the prior meeting of July 12, 2001, to be addressed.

Chairman Lemon informed Mr. Whyte that the Board will continue with the agenda as previously revised, adding that BDR 2000-0216 – Hite Landing Multi-Family Type 3 Design Review would be next and that hopefully the unresolved issues would be resolved quickly.

NEW BUSINESS:

PUBLIC HEARING:

B. BDR 2000-0216 - HITE LANDING MULTI-FAMILY

A proposal to construct two apartment buildings, one two-stories, the other three-stories, for a total of 46 units, with associated parking, sidewalks, and landscaping. The Board of Design Review, during a public hearing, will review the overall design of this request including buildings, landscaping, vehicle circulation layout, and lighting design. In taking action on the proposed development, the Board shall base its decision on the approval criteria listed in Section 40.10.15.3.C. The development proposal is generally located south of SW Conestoga Drive and east of SW 125th Avenue addressed at 10010 SW 125th Avenue; Washington County Assessor's Map 1S1-34BB on Tax Lot 200. The

affected parcel is zoned Urban High Density (R-1) and is approximately 1.34 acres in size.

Mr. Whyte presented the Staff Report, dated July 19, 2001, described the application for the construction of two apartment buildings, and referred to Staff Memorandum, dated July 26, 2001, concerning the historic resource located on the site. He mentioned that this information had only recently come to staff's attention. He pointed out that although the structure presently located on the site is a single-family home, there is some relationship to an old school, adding that a large oak tree on the site, which has been recognized as a historical tree, apparently has the initials of some of the children who attended that school carved into the bark. He commented that this would require the applicant to submit a Tree Preservation Plan for approval and that they would also be required to obtain the approval of the Historic Resource Review Committee (HRRC) prior to removing the structure on the site. Concluding, he recommended denial of the application, without prejudice, due to staff finding that Design Criterion "A" is not satisfied.

Chairman Lemon referred to the last page of the Memorandum dated July 26, 2001, which includes a list and ranking of historic resources within the City of Beaverton, requesting clarification of the status of an important historic ranking, as opposed to significant.

Senior Planner John Osterberg advised Chairman Lemon that the sites that are listed as either significant or important are considered to be historic landmarks within the City of Beaverton and are subject to the standards for historic resource review. He further clarified that some sources are listed as unrankable, adding that while they are included in the inventory, there is a lack of information available on these properties or they did not meet the threshold for landmark status.

Chairman Lemon pointed out that in spite of any decision of the Board, the applicant retains the right to appeal to the City Council, and expressed his opinion that some of these sites should have been presented to the HRRC prior to submittal to the Board. He mentioned that the applicant also should have been required to submit a Tree Preservation Program concerning any historic trees that might be located on the site.

Mr. Osterberg pointed out that this site involves historic trees, adding that this issue should also be addressed by the HRRC, emphasizing that there is a difference between a historic tree and a significant tree.

Chairman Lemon mentioned that the Memorandum states that the applicant would be required to submit an application for a Tree Preservation Plan.

Observing that this site involves some complex issues, Mr. Osterberg stated that Chairman Lemon is correct about the required Tree Preservation Plan, clarifying that although the removal of that historic tree would be referred to as a Tree Preservation Plan, the application would be reviewed by the HRRC. He pointed out that the tree issues were not supposed to have occurred in advance to this application, adding that the Board had approved the Millikan Way Street Extension, with certain Conditions of Approval, prior to HRRC's review of the demolition of *The Henry House*.

Mr. Straus pointed out that it is still within the jurisdiction of the Board to determine issues regarding trees as they relate to the design of a proposal, regardless of any inventory significance or historic value.

At the request of Mr. Straus, Mr. Whyte clarified that essentially all of the interior trees on the site have been proposed for removal, although those along the perimeter of the site, adjacent to the school, would be preserved.

Mr. Straus referred to the development at Conestoga Middle School and the oak trees required for preservation as part of that project. He questioned whether this applicant could be required to meet a higher standard of performance than a similar situation.

Mr. Osterberg advised Mr. Straus that because each application and site is judged on its own merit and there is no precedent, different applicants could be required to meet different standards of performance, provided that each application is judged to meet the approval criteria.

APPLICANT:

JOHN ANNAND, architect for the applicant, described the proposal and discussed the methods utilized by the applicant to address certain site limitations. He submitted a color and sample board for review by the Board, and discussed the areas of concern that had been mentioned. Observing that one of the landscape architect's objectives had been to preserve as many of the existing trees as possible, he pointed out that due to circulation issues, mostly only the perimeter trees could be saved. He referred to the existing structure and the historic oak tree mentioned by staff, noting that the proposal exceeds the minimum landscape requirements. Observing that his landscaping architect is unavailable due to a family situation, he attempted to describe her proposal. He mentioned that the applicant is proposing a three-foot high berm along 125th Avenue, in addition to a four-foot high cedar fence, in front of the screening trees and addressed issues relating to the proposed elevations. He discussed the elements of the original proposal, including the materials and combinations within the individual units, and suggested some possible alternate designs. Concluding, he pointed out that he had made some revisions and attempted to provide a pleasant design for both

the residents and the community and offered to respond to any questions or comments.

GREGORY KURAHASHI, representing *Kurahashi & Associates, Inc.*, discussed both the historical and tree preservation issues regarding the site.

BRENT ARVIDSON, representing *Kurahashi & Associates, Inc.*, pointed out that the applicant had only recently become aware of the historical situation today. He expressed his opinion that there is a solution to this issue that would conform to the City Code, adding that the applicant is proposing a Condition of Approval to address the typical historical resource process. He stated that the applicant would like to process and present their application to the HRRC for a demolition permit, at which time the structure would be offered for sale, with an appropriate period of time allowed for removal. Pointing out that the only tree designated as a historical resource is the Oak Tree, he assured the Board that the applicant has confidence that this tree, which is located in the area proposed for a wheelchair ramp, could easily be preserved.

Mr. Kurahashi mentioned that although it is typically difficult to preserve trees located on the site where grading must occur, because this tree is located in the center of site, it should be easy to resolve this issue. He referred to the proposed Condition of Approval to not cut the pavement, adding that the applicant had not been aware that this would be a major concern and that there are solutions to prevent some of these impacts.

Mr. Whyte asked Mr. Kurahashi if he is referring to the Facilities Review Conditions of Approval, which had been prepared by City Engineer Jim Duggan.

Chairman Lemon questioned whether the change in water source and the utility and storm drain plan are included in Facilities Review.

Mr. Kurahashi noted that this document indicates that no cuts shall be allowed on 125th Avenue.

Chairman Lemon pointed out that this issue would create a jurisdictional dispute, adding that the Board of Design Review has no control over Facilities Review. He clarified that while the Board can send items back to the Facilities Review Committee for clarification, they are not able to change their Conditions of Approval.

Mr. Osterberg advised Chairman Lemon that the Board does have jurisdiction over the Facilities Review Conditions of Approval, adding that the City Code indicates the proper procedure, which includes a special report to be presented to the Board by staff on the request to amend or delete a Facilities Review Condition. He pointed out that this would be most likely to occur through a continuance of the Public Hearing.

Chairman Lemon mentioned that this is an additional consideration with this application, emphasizing that the special report referred to by Mr. Osterberg only clarifies what has been done by Facilities Review and does not allow the Board to revise the Facilities Review Conditions of Approval.

Mr. Osterberg informed Chairman Lemon that the Code states that after the Board is presented the report by staff, the request of the applicant is reviewed, at which point the Board can then take action to delete or amend the Facilities Review Conditions of Approval.

Mr. Arvidson suggested a possible Condition of Approval requiring the applicant to coordinate with the Department of Public Works.

Chairman Lemon pointed out that this issue is not under the jurisdiction of the Board and should not be discussed at this time.

Mr. Annand discussed the trees located on the school side of the site and the proposed screening, pointing out that only the roofline would be visible from the school.

Ms. Crane requested clarification of the extra paint and brick colors that have been submitted.

Mr. Annand explained the changes to the brick color, which had been revised with the change of elevation.

DALE RICHARDS, representing *Windwood Construction Inc.*, observed that most of the issues have been addressed and requested a continuance of the Public Hearing to allow the staff additional time to review proposed revisions to be submitted by the applicant.

Mr. Beighley mentioned that with the continuance, the applicant should indicate how the proposed berm and fence would interact along 125th Avenue, adding that the Cypress Trees should be preserved and that there should be some additional treatment in that area.

PUBLIC TESTIMONY:

On question, no member of the public appeared to testify regarding this application.

Referring to the applicant's request for a continuance, Mr. Osterberg requested clarification of how much additional time the applicant would require and whether the 120-day rule would be waived, and requested direction from the Board.

Mr. Straus suggested that it would be helpful if the applicant were to provide a colored illustration in addition to the material samples.

Mr. Annand apologized for not having a colored illustration this evening, adding that unfortunately, the applicant had just become aware of the revisions and these samples were not yet available.

Mr. Beighley requested that the applicant's arborist be available at the continuance.

Observing that he had no further comments, Mr. Whyte discussed possible dates for the continuance.

Noting that the applicant would be required to sign a waiver of the 120-day rule, Chairman Lemon questioned how long the applicant would like to continue the issue.

Mr. Richards informed Chairman Lemon that the applicant would like the item to be continued for three weeks.

Noting that the applicant is waiving at least this additional period of time and only one other item is scheduled for this meeting, Mr. Whyte suggested that the application be continued to August 23, 2001 and informed Chairman Lemon that he does have the required form available for signature.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion that BDR 2000-0216 – Hite Landing Multi-Family Residential Type 3 Design Review be continued to a date certain of August 23, 2001, to allow the applicant to address the following issues:

1. Landscaping along the 125th Avenue street frontage.
2. Tree preservation for the existing Oak Tree and any others they choose to preserve; and
3. Submittal of the completed revised elevations and color board, including a colored elevation drawing to indicate the locations of the different materials and colors.

The question was called and the motion **CARRIED**, unanimously.

9:26 p.m. – Ms. Crane left.

9:27 p.m. to 9:34 p.m. -- break.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion that the Board be allowed to continue items past the typical 10:00 p.m. deadline, if necessary.

The question was called and the motion **CARRIED**, unanimously.

OLD BUSINESS:

A. BDR 2001-0028 - SPRINT PCS TELECOMMUNICATIONS FACILITY AT KIM'S MARKET TYPE 3 DESIGN REVIEW

(Continued from July 12, 2001)

This proposal to place a telecommunications facility consists of six antennas placed atop a 75-foot monopole for an overall height of 80 feet. In addition, the applicant proposes to install 7 equipment cabinets at the base of the monopole, with associated fencing, landscaping and parking. The site proposed for placement of the facility is generally located on the north side of SW Allen Boulevard, between SW Murray Boulevard and SW 141st Avenue. The site can be specifically identified as *Kim's Market*, addressed at 14295 SW Allen Boulevard; Washington County Assessor's Map 1S1-16CC, on Tax Lot's 602 and 605. The affected parcels are zoned Community Service (CS) and Office Commercial (OC), and together total approximately 1.25 acres in size.

Chairman Lemon emphasized that this issue is not open for public testimony again, adding that the purpose of continuing this item is only for the Board to deliberate among themselves and vote on a decision.

Referring to Design Review Approval Criterion "a", Ms. Prentice stated that based on issues regarding compatibility, the neighborhood surroundings, and the proposed size, shape and visual arrangement, she is not in favor of approving this application.

Mr. Beighley mentioned the possibility for consideration of a different proposal.

For the record, Mr. Whyte discussed the Memorandum prepared by Community Development Director Joe Grillo regarding the procedure for this issue, and the Staff Memorandum referencing two draft land use orders, one for approval and one for denial of this application. He mentioned that past Staff Reports prepared for this request had discussed alternate color schemes, designs and landscaping as possible Conditions of Approval.

With consideration to the alternate proposals described by Mr. Whyte, Mr. Beighley expressed his support of the proposal.

Chairman Lemon referred to the "...similar considerations given..." portion of Criterion "a", in relationship to future allowed uses. He mentioned an earlier comment questioning whether one applicant could be required to comply with stricter interpretations of the criteria than another similar application at a different location, emphasizing that this is within the jurisdiction of the Board. Observing that he does not feel that this proposal is compatible with the existing neighborhood, he stated that he is not in favor of approving the application.

Mr. Straus pointed out that the question of compatibility for this type of structure is inherent no matter where it is proposed in the City. He observed that there is no location where one would find a large grouping of similar-type structures with which it could be considered comparable and compatible. He mentioned that it is the inherent nature of this type of facility to require a pole in order to function, adding that similar proposals elsewhere within the City of Beaverton have encountered similar types of opposition. He pointed out that if nobody's back yard is the proper location for such a development, it would become impossible for this system to function. He pointed out that these facilities cannot be located only in industrial areas, which would not allow for the coverage that the facilities are entitled to provide. He expressed his opinion that the revised pole design with the tapered configuration and flush-mounted antennas does a great deal to minimize the impact upon the surrounding neighborhood and is less obtrusive. He pointed out that the proposed modifications to the existing landscaping above the north property line, as indicated in Staff Memorandum dated July 19, 2001, along with the proposed change in the paint color of the pole have achieved the goal of minimizing the impact of the facility. Concluding, he expressed his approval of the application, with certain modifications to the pole design, landscaping and color.

Ms. Prentice acknowledged that the Board has approved similar applications at different locations, but noted that each application is determined on a case-by-case basis. She mentioned that consideration still needs to be given to the height of the pole with respect to coverage.

Chairman Lemon mentioned that while many of these facilities have been approved in the past, this particular application has too many issues and crosses over the line. Observing that he does not own and has no desire to own a cellular phone, he mentioned that he had borrowed one from a neighbor, and although he is not aware which provider he was utilizing, he immediately discovered that he has adequate coverage. Emphasizing that he does not feel that this particular development is compatible with the surrounding neighborhood, he stated that he could not vote to approve this application.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion to approve BDR 2001-0028 – Sprint PCS Telecommunications Facility at Kim's Market Type 3 Design Review, based upon testimony, reports and exhibits, background facts, findings and conclusions found in the Staff Report dated June 7, 2001, as further modified by Staff Memorandum dated July 19, 2001, including Conditions of Approval Nos. 1-17, and the additions and modifications to the conditions, as noted in the July 19, 2001 Memorandum.

Chairman Lemon clarified the July 19, 2001 Staff Memorandum provided by Mr. Whyte.

The question was called and the motion was **LOST** due to the following tied vote:

Ayes: Beighley
Straus

Nays: Lemon
Prentice

Chairman Lemon observed that the motion was lost and hearing no additional motion, he passed the gavel to Vice-Chairman Straus.

Chairman Lemon **MOVED** and Ms. Prentice **SECONDED** a motion for the denial of BDR 2001-0028 – Sprint PCS Telecommunications Facility at Kim’s Market Type 3 Design Review, based upon testimony, reports and exhibits, background facts, findings and conclusions, and based upon the fact that the project does not meet all the applicable criteria of the Board of Design Review design standards, specifically paragraph “A”, relating to the relationship to the existing surroundings, and future allowed uses, locations, size, shape, height and spatial and visual arrangement of the uses and structures, with consideration given to setbacks, building height, shared parking, common driveways, and other considerations.

The question was called and the motion was **LOST** due to the following tied vote:

Ayes: Lemon
Prentice

Nays: Beighley
Straus

Hearing no additional motions, Vice-Chairman Straus returned the gavel to Chairman Lemon.

Chairman Lemon stated that the motion was lost due to the tied vote, observing that because of this deadlock, the issue passes up to the next level for a decision, which is the City Council.

Mr. Straus suggested that the applicant could request another continuance for an additional chance for odd number of members so that there would be no tied vote.

Mr. Scheiderich indicated that the applicant is aware that this is not necessarily the final decision that could be made on this matter.

Chairman Lemon stated that the issue is closed.

**B. BDR 2000-0185 -- MURRAY HILLS CHRISTIAN CHURCH ADDITION
TYPE 3 DESIGN REVIEW**

(Continued from July 12, 2001)

The following land use application has been submitted for the proposed expansion of Murray Hills Christian Church, an existing church facility, located at 15050 SW Weir Road. Site grading is proposed to the southern portion of the site to accommodate the proposed building addition and to modify the existing on-site storm water quality facility. The proposed church addition is intended to match the existing building architecture. No expansion to the existing parking lot area is

proposed. Landscaping is proposed on the southern portion of the site. The site can be specifically identified as Tax Lot 400 on Washington County Assessor's Map 1S1-32AA. The subject property is zoned Urban Standard Density (R-5) and is approximately 3.89 acres in size. Within the R-5 zone, churches and related facilities are permitted as a conditional use.

Chairman Lemon observed that there would be no public testimony on this issue, adding that this is simply an opportunity for discussion and deliberation among members of the Board in order to make a decision.

Mr. Whyte described the Staff Reports and Staff Memorandums related to this application.

Ms. Prentice observed that she still is unable to approve the proposed structure, which she feels is too massive, with consideration to the grade, adding that the proposed landscaping is insufficient to screen such a large structure. She emphasized that due to the size, shape and height of the structure, the proposal is not compatible with the existing surroundings, pursuant to Criterion "a".

Mr. Beighley expressed his support of the application, adding that he feels that the applicant has done an adequate job of addressing the screening of the structure.

Chairman Lemon observed that while the proposal involves an attractive structure, the proposed location is an unfortunate site. He referred to paragraph "A" of the design standards, as follows: "the relationship to the existing surroundings and future allowed uses, the location, size, shape, height and spatial and visual arrangements and uses of the structure are not compatible". He emphasized that he does not agree that the development, as proposed, is compatible with the neighborhood, adding that the standards under paragraph "A" have not been adequately addressed. He mentioned paragraph "G", noting that the quality, location, size and aesthetic design of walls, fences, berms, traffic islands, meeting areas, hedges, screen plantings and landscaping areas are such that their intended purpose have no adverse effect on existing or contemplated abutting land uses. He discussed paragraph "F", expressing his concern that the grading and contouring to the site that would take place for drainage purposes relies on the human factor for regular maintenance. Observing that he does not feel comfortable with the proposal meeting the applicable criteria, he stated that he could not approve the application.

Mr. Straus stated that while he appreciates concerns expressed relative to the scale and mass of building, from a realistic standpoint, the building would be located in excess of 100 feet to property line and even further to the nearest dwellings. He mentioned the view of the hillside proposed for additional landscaping and screening through subsequent submission in addition to what was originally proposed. He referred to what he described as a similar type of application, specifically an assisted living facility off of Hart Road, which backs up to a

residential area and had half the distances. Observing that he does not feel comfortable denying the proposal on the basis that the detention pond might not get adequate future maintenance, he expressed his approval of the application.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion to approve BDR 2000-0185 – Murray Hills Christian Church Addition Type 3 Design Review, based upon testimony, reports and exhibits, background facts, findings and conclusions found in the Staff Report dated April 19, 2001, as further modified by Staff Memorandum dated July 5, 2001, including Conditions of Approval Nos. 1-14.

Mr. Beighley questioned whether the new landscape plan has been addressed, adding that he wants to make certain that this is included.

Mr. Whyte advised Mr. Beighley that the revised landscape drawings would be included.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion to amend the motion by deleting Condition of Approval No. 14.

The question was called and the motion was **LOST** due to the following tied vote:

Ayes: Beighley
Straus

Nays: Lemon
Prentice

Chairman Lemon observed that the motion was lost and hearing no second motion, he passed the gavel to Vice-Chairman Straus.

Mr. Whyte pointed out that the Planning Director had advised him that it is important for the Board to exhaust all feasible alternative motions by which a decision could be reached.

Chairman Lemon **MOVED** and Ms. Prentice **SECONDED** a motion for the denial of BDR 2000-0185 – Murray Hills Christian Church Addition Type 3 Design Review, based upon testimony, reports and exhibits, background facts, findings and conclusions, and based upon the fact that the project does not meet all the applicable criteria of the Board of Design Review design standards, specifically Criterion “A”, “F” and “G”.

The question was called and the motion was **LOST** due to the following tied vote:

Ayes: Lemon
Prentice

Nays: Beighley
Straus

Vice-Chairman Straus returned the gavel to Chairman Lemon.

Chairman Lemon stated that the motion was lost due to the tied vote.

Mr. Whyte questioned whether the Board is certain that all possible motions have been exhausted.

Hearing no further motions, Chairman Lemon stated that the issue is closed.

APPROVAL OF MINUTES:

The minutes of June 14, 2001, as written, were submitted. Chairman Lemon asked if there were any changes or corrections. Mr. Straus **MOVED** and Ms. Prentice **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Mr. Beighley, who abstained from voting on this issue.

MISCELLANEOUS BUSINESS:

The meeting adjourned at 10:26 p.m.